

REMARKS/ARGUMENTS

As stated above, Applicants elect bone marrow of Group A and hematopoietic cells of Group B, and respectfully traverses the requirement for restriction for the following reasons:

It is believed that any search for the invention embodied in the non-elected species would necessarily include a search of the inventions embodied in the elected species from groups A and B. Thus, the simultaneous search for all of the species is believed not to constitute an unreasonable search for the Patent Examiner.

The method of the invention solves the technical problem that makes the identification of aberrant phenotypes subjective and difficult to reproduce. The method of the invention is not confined to a specific human sample because it improves the sensitivity, specificity and reproducibility of the detection of aberrant phenotypes expressed by neoplastic cells in bone marrow, peripheral blood, spinal fluid or lymph nodes not mattering if the neoplastic cells contain hematopoietic tumor cells or neoplastic cells from any non-hematopoietic origin such

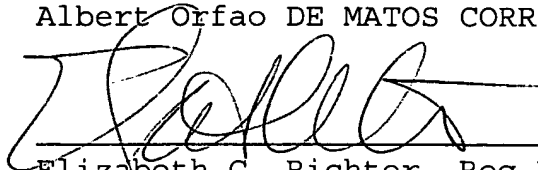
as breast cancer, renal carcinomas, prostate tumors, lung cancer, bladder carcinomas or gastric tumors among others.

In addition, it is believed that the objectives of streamlined examination and compact prosecution would be promoted if a search were conducted simultaneously for all of the Groups. Also, the necessity of filing multiple patent applications in this case does not serve to promote the public interest because of the extra expense that is involved, in filing fees and examination costs, as well as the burden upon the public due to the necessity of searching through a multiplicity of patent files in order to find the complete range of subject matter claimed in several different patents that could otherwise be found in one issued patent only.

Applicants reserve the right to file divisional applications for the non-elected inventions.

For all these reasons, it is respectfully requested that the restriction requirement under 35 U.S.C. §121 be withdrawn, and that an action on the merits of all the claims be rendered.

Respectfully submitted,
Albert Orfao DE MATOS CORREIA E VALLE ET AL.


Elizabeth C. Richter, Reg.No.35,103
Frederick J. Dorchak, Reg. No. 29,298
William C. Collard, Reg. No. 38,411
Attorneys for Applicants

COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802

ECR:cmm

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Kelly Espitia